

LATHAM & WATKINS LLP  
Steven N. Feldman (Bar No. 281405)  
*steve.feldman@lw.com*  
355 South Grand Avenue, Suite 100  
Los Angeles, California 90071-1560  
Telephone: +1.213.891.8790

Johanna Spellman (*pro hac vice*)  
*johanna.spellman@lw.com*  
330 N. Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Telephone: +1.312.777.7039

Kevin Jakopchek (*pro hac vice*)  
*kevin.jakopchek@lw.com*  
330 N. Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Telephone: +1.312.777.7244

Shlomo Fellig (*pro hac vice*)  
*shlomo.fellig@lw.com*  
200 Clarendon Street  
Boston, MA 02116  
Telephone: +1.617.880.4636

*Attorneys for Defendant*  
*The Shade Store, LLC*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

SHARON CROWDER, JOEL LUMIAN,  
ROBERT SMITH, AMANDA  
GOLDWASSER, and MARK ELKINS, each  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

THE SHADE STORE, LLC,

Defendant.

Case 5:23-cv-02331-NC

**DEFENDANT THE SHADE STORE,  
LLC'S ANSWER TO PLAINTIFFS'  
THIRD AMENDED CLASS ACTION  
COMPLAINT**

**DEMAND FOR JURY TRIAL**

Complaint Filed: December 6, 2024

1 Defendant The Shade Store, LLC (“The Shade Store” or “TSS”), by and through its  
 2 attorneys of record, respectfully submits this Answer and Affirmative Defenses to Plaintiffs’ Third  
 3 Amended Class Action Complaint (Dkt. 94) (“Third Amended Complaint”), as follows:

#### 4 **GENERAL DENIAL**

5 Except as otherwise expressly stated herein, The Shade Store: (1) generally denies each  
 6 and every allegation in the Third Amended Complaint, including, without limitation, any  
 7 allegations contained in the introduction, headings, subheadings, unnumbered Paragraphs, and  
 8 footnotes; (2) specifically denies that it has caused Plaintiffs to suffer any harm, losses, or  
 9 damages; (3) denies any liability to Plaintiffs; and (4) declines to adopt or acknowledge as accurate  
 10 any defined terms in the Third Amended Complaint to the extent they constitute allegations  
 11 directed at The Shade Store. The Shade Store reserves the right to challenge the authenticity of all  
 12 sources and documents referred to or purportedly quoted from in the Third Amended Complaint,  
 13 and to assert that any of the sources or documents referred to or purportedly quoted from by  
 14 Plaintiffs in the Third Amended Complaint are covered by the attorney-client privilege, the work-  
 15 product doctrine, and/or otherwise applicable privileges. The Shade Store reserves the right to seek  
 16 to amend or supplement its Answer as may be necessary or appropriate.

#### 17 **RESPONSES TO SPECIFIC ALLEGATIONS**

##### 18 **INTRODUCTION**

19 1. Paragraph 1 consists of argument, or expert or legal conclusions, to which no  
 20 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
 21 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 1,  
 22 and on that basis, denies them.

23 2. Paragraph 2 consists of argument, or expert or legal conclusions, to which no  
 24 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
 25 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 2,  
 26 and on that basis, denies them.

27 3. Paragraph 3 contains legal conclusions, to which no response is required. The  
 28 Shade Store states that Cal. Bus. & Prof. Code §§ 17500 and 17501 speak for themselves, and to

1 the extent the allegations in Paragraph 3 vary therefrom, The Shade Store denies them. The Shade  
2 Store denies any remaining allegations of Paragraph 3.

3 4. Paragraph 4 contains legal conclusions, to which no response is required. The  
4 Shade Store states that Cal. Civ. Code § 1770(a)(9), (13) speaks for itself, and to the extent the  
5 allegations in Paragraph 4 vary therefrom, The Shade Store denies them. The Shade Store denies  
6 any remaining allegations of Paragraph 4.

7 5. Paragraph 5 contains legal conclusions to which no response is required. The Shade  
8 Store states that 16 C.F.R. § 233.1 speaks for itself, and to the extent the allegations in Paragraph  
9 5 vary therefrom, The Shade Store denies them. The Shade Store denies any remaining allegations  
10 of Paragraph 5.

11 6. Paragraph 6 contains argument or legal conclusions, to which no response is  
12 required. To the extent a response is required, The Shade Store denies the allegations in Paragraph  
13 6.

14 7. The Shade Store admits that it makes, sells, and markets custom window treatment  
15 products that are advertised on its website and in its showrooms. The Shade Store further admits  
16 that it offers in-home measurements and price quotes through its public website in various ways,  
17 including via a pop-up window on the homepage, chat, email, and a toll-free number. The Shade  
18 Store further admits that its products can be purchased through various channels, including its  
19 website, design consultants, and showrooms. The Shade Store states that the referenced website  
20 speaks for itself, and to the extent the allegations in Paragraph 7 vary therefrom, The Shade Store  
21 denies them. The Shade Store denies any remaining allegations of Paragraph 7.

22 8. The Shade Store admits that it advertises price discounts on its website. The Shade  
23 Store states that the referenced website speaks for itself, and to the extent the allegations in  
24 Paragraph 8 vary therefrom, The Shade Store denies them. The Shade Store denies any remaining  
25 allegations set forth in Paragraph 8.

26 9. The Shade Store admits that it advertises price discounts on its publicly available  
27 website. The Shade Store states that the referenced website and screenshots set forth in Paragraph  
28 9 speak for themselves, and to the extent the allegations in Paragraph 9 vary therefrom, The Shade

1 Store denies them. The Shade Store lacks knowledge or information concerning the accuracy of  
 2 the screenshots set forth in Paragraph 9, and therefore denies them. The Shade Store denies any  
 3 remaining allegations in Paragraph 9.

4 10. The Shade Store admits that it advertises price discounts on price quotes, including  
 5 quotes that The Shade Store provides through its website, in-person, over the phone, or through its  
 6 design consultants before customers place an order, and that some quotes have included a price  
 7 shown in strikethrough font. The Shade Store states that the referenced price quote and screenshots  
 8 set forth in Paragraph 10 speak for themselves, and to the extent the allegations in Paragraph 10  
 9 vary therefrom, The Shade Store denies them. The Shade Store lacks knowledge or information  
 10 concerning the accuracy of the screenshots set forth in Paragraph 10, and therefore denies all  
 11 allegations concerning them. The Shade Store denies any remaining allegations in Paragraph 10.

12 11. The Shade Store admits that it advertises price discounts on product pages on its  
 13 websites. The Shade Store states that the referenced website and screenshot set forth in Paragraph  
 14 11 speak for themselves, and to the extent the allegations in Paragraph 11 vary therefrom, The  
 15 Shade Store denies them. The Shade Store lacks knowledge or information concerning the  
 16 accuracy of the screenshots set forth in Paragraph 11, and therefore denies all allegations  
 17 concerning them. The Shade Store denies any remaining allegations in Paragraph 11.

18 12. The Shade Store denies all allegations in Paragraph 12.

19 13. Paragraph 13 contains argument or legal conclusions to which no response is  
 20 required. To the extent a response is required, The Shade Store admits that Sharon Crowder, Joel  
 21 Lumian, Robert Smith, Amanda Goldwasser, and Mark Elkins bought Products from The Shade  
 22 Store. The Shade Store further admits that Ms. Crowder ordered products through The Shade  
 23 Store's website. The Shade Store further admits that a The Shade Store design consultant provided  
 24 a price quote to Mr. Lumian and conducted an in-person measurement at a home at his request  
 25 before he placed his order. The Shade Store further admits that it provided a price quote to Mr.  
 26 Smith and that Mr. Smith visited one of The Shade Store's brick-and-mortar showrooms before he  
 27 placed his order. The Shade Store further admits that a The Shade Store design consultant provided  
 28 a price quote to Ms. Goldwasser before she placed an order. The Shade Store further admits that a

1 The Shade Store design consultant provided a price quote to Mr. Elkins before he placed his order.  
 2 The Shade Store states that the price quotes referenced in Paragraph 13 speak for themselves, and  
 3 to the extent the allegations in Paragraph 13 vary therefrom, The Shade Store denies them. The  
 4 Shade Store lacks knowledge or information sufficient to form a belief as to the truth or falsity of  
 5 the remaining allegations in Paragraph 13, and on that basis, denies them.

6 14. Paragraph 14 consists of argument, or expert or legal conclusions, to which no  
 7 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
 8 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 14,  
 9 and on that basis, denies them. The Shade Store specifically denies that its advertisements harm  
 10 consumers or contain false information or misrepresentations.

11 15. The Shade Store admits that Plaintiffs purport to bring this case on behalf of  
 12 themselves and other consumers who purchased The Shade Store's Products. The Shade Store  
 13 denies that class treatment of Plaintiffs' claims is appropriate. To the extent Paragraph 15 contains  
 14 any other allegations, The Shade Store denies them.

### 15 PARTIES

16 16. The Shade Store lacks knowledge or information sufficient to form a belief as to  
 17 the truth or falsity of the allegations in Paragraph 16, and on that basis, denies them.

18 17. The Shade Store lacks knowledge or information sufficient to form a belief as to  
 19 the truth or falsity of the allegations in Paragraph 17, and on that basis, denies them.

20 18. The Shade Store lacks knowledge or information sufficient to form a belief as to  
 21 the truth or falsity of the allegations in Paragraph 18, and on that basis, denies them.

22 19. The Shade Store lacks knowledge or information sufficient to form a belief as to  
 23 the truth or falsity of the allegations in Paragraph 19, and on that basis, denies them.

24 20. The Shade Store lacks knowledge or information sufficient to form a belief as to  
 25 the truth or falsity of the allegations in Paragraph 20, and on that basis, denies them.

26 21. Paragraph 21 contains legal conclusions to which no response is required. To the  
 27 extent a response is required, The Shade Store denies the allegations in Paragraph 21.

28 22. The Shade Store admits the allegations of Paragraph 22.

**JURISDICTION AND VENUE**

23. Paragraph 23 contains legal conclusions to which no response is required. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent a response is required, The Shade Store admits that the Court has subject matter jurisdiction under CAFA. The Shade Store denies any remaining allegations in Paragraph 23.

24. Paragraph 24 contains legal conclusions to which no response is required. To the extent a response is required, The Shade Store admits that The Shade Store has transacted business in California and that Plaintiffs purchased products from The Shade Store to be shipped to addresses in California. The Shade Store specifically denies that its products harm consumers or contain false information or misrepresentations. The Shade Store denies the remaining allegations in Paragraph 24 .

25. The allegations in Paragraph 25 contain legal conclusions to which no response is required. To the extent a response is required, The Shade Store admits that it has advertised and sold products to customers in this District. The Shade Store denies the remaining allegations in Paragraph 25.

26. The allegations in Paragraph 26 contain legal conclusions to which no response is required. To the extent a response is required, The Shade Store admits that it has advertised and sold products to customers in Monterey, California. The Shade Store denies the remaining allegations in Paragraph 26.

**FACTS**

27. The Shade Store admits that it makes, sells, and markets custom window treatment products through various channels, including its website, a toll-free number, design consultants, and in showrooms. The Shade Store denies the remaining allegations in Paragraph 27.

28. The Shade Store admits that it advertises price discounts on its website. The Shade Store states that the referenced website and screenshot set forth in Paragraph 28 speak for themselves, and to the extent the allegations in Paragraph 28 vary therefrom, The Shade Store denies them. The Shade Store lacks knowledge or information concerning the accuracy of the screenshot set forth in Paragraph 28, and therefore denies all allegations concerning it. The Shade

1 Store denies the remaining allegations in Paragraph 28.

2 29. The Shade Store admits that it includes price discounts on some of its price quotes,  
3 including some of the quotes offered through various channels before customers place an order,  
4 and that some of these discounts are shown in strikethrough font. The Shade Store denies the  
5 remaining allegations of Paragraph 29.

6 30. The Shade Store admits that it advertises price discounts on its website, including  
7 percent-off discounts, and that it provides price quotes to customers. The Shade Store states that  
8 the referenced website, price quotes, and screenshots set forth in Paragraph 30 speak for  
9 themselves, and to the extent the allegations in Paragraph 30 vary therefrom, The Shade Store  
10 denies them. The Shade Store lacks knowledge or information concerning the accuracy of the  
11 screenshots set forth in Paragraph 30, and therefore denies all allegations concerning them. The  
12 remaining allegations consist of argument, or expert or legal conclusions, to which no response is  
13 required. To the extent a response is required, The Shade Store denies the remaining allegations  
14 of Paragraph 30.

15 31. Paragraph 31 consists of argument or legal conclusions to which no response is  
16 required. To the extent a response is required, The Shade Store admits that it has advertised price  
17 discounts as ending on a specific date. The Shade Store denies the remaining allegations in  
18 Paragraph 31.

19 32. The Shade Store states that the screenshots set forth in Paragraph 32 speak for  
20 themselves, and to the extent the allegations in Paragraph 32 vary therefrom, The Shade Store  
21 denies them. The Shade Store lacks knowledge or information concerning the accuracy of the  
22 screenshots set forth in Paragraph 32, and therefore denies all allegations concerning them. The  
23 Shade Store denies any remaining allegations in Paragraph 32.

24 33. Paragraph 33 consists of argument or legal conclusions to which no response is  
25 required. The Shade Store states that the screenshots referenced in Paragraph 33 speak for  
26 themselves, and to the extent the allegations in Paragraph 33 vary therefrom, The Shade Store  
27 denies them. The Shade Store lacks knowledge or information concerning the accuracy of the  
28 allegations set forth and screenshots referenced in Paragraph 33, and therefore denies them. The

1 Shade Store denies any remaining allegations in Paragraph 33.

2 34. The Shade Store admits that it advertised price discounts in price quotes provided  
3 to customers through various channels. The Shade Store denies any remaining allegations in  
4 Paragraph 34.

5 35. The Shade Store denies the allegations in Paragraph 35.

6 36. The Shade Store admits that it advertised the described sale through its website,  
7 www.theshadestore.com, to potential customers. The Shade Store states that the screenshot set  
8 forth in Paragraph 36 speaks for itself, and to the extent the allegations in Paragraph 36 vary  
9 therefrom, The Shade Store denies them. The Shade Store lacks knowledge or information  
10 concerning the accuracy of the screenshot set forth in Paragraph 36, and therefore denies all  
11 allegations concerning it. The Shade Store denies any remaining allegations in Paragraph 36.

12 37. The Shade Store denies the allegations in Paragraph 37.

13 38. The Shade Store admits that it offers price quotes to customers through various  
14 sales channels, including through its website, showrooms, and design consultants, and including  
15 quotes depicting percent-off price discounts. The Shade Store further admits that a The Shade  
16 Store design consultant provided a price quote to Mr. Lumian before he made his purchase. The  
17 Shade Store further admits that it provided a price quote to Mr. Smith and that Mr. Smith visited  
18 one of The Shade Store's brick-and-mortar showrooms. The Shade Store states that the referenced  
19 price quotes and screenshots set forth in Paragraph 38 speak for themselves, and to the extent the  
20 allegations in Paragraph 38 vary therefrom, The Shade Store denies them. The Shade Store lacks  
21 knowledge or information concerning the accuracy of the screenshots set forth in Paragraph 38,  
22 and therefore denies all allegations concerning them. The Shade Store lacks knowledge of  
23 information sufficient to form a belief as to the truth or falsity of the remaining allegations in  
24 Paragraph 38, and on that basis, denies them.

25 39. Paragraph 39 contains argument, or expert or legal conclusions, to which no  
26 response is required. To the extent a response is required, The Shade Store admits that it includes  
27 terms related to promotions in price quotes sent to consumers. The Shade Store denies any  
28 remaining allegations in Paragraph 39.



1           40. Paragraph 40 contains argument, or expert or legal conclusions, to which no  
2 response is required. To the extent a response is required, The Shade Store denies the allegations  
3 in Paragraph 40.

4           41. Paragraph 41 contains argument, or expert or legal conclusions, to which no  
5 response is required. To the extent that a response is required, The Shade Store admits that it  
6 manufactures and sells custom window treatment products directly to customers, including at a  
7 price discount. The Shade Store lacks knowledge or information concerning the remaining  
8 allegations in Paragraph 41, and therefore denies them.

9           42. The Shade Store admits that it sells products on various sales channels, including  
10 at a price discount. The Shade Store denies any remaining allegations in Paragraph 42.

11           43. Paragraph 43 contains argument, or expert or legal conclusions, to which no  
12 response is required. To the extent that a response is required, The Shade Store admits that some  
13 of its products can be purchased through third-party retailers. The Shade Store denies any  
14 remaining allegations in Paragraph 43.

15           44. Paragraph 44 contains legal conclusions to which no response is required. To the  
16 extent a response is required, The Shade Store states that the referenced statute speaks for itself,  
17 and to the extent the allegations in Paragraph 44 vary therefrom, The Shade Store denies them.

18           45. Paragraph 45 contains legal conclusions to which no response is required. To the  
19 extent a response is required, The Shade Store states that the referenced statute speaks for itself,  
20 and to the extent the allegations in Paragraph 45 vary therefrom, The Shade Store denies them.

21           46. Paragraph 46 contains legal conclusions to which no response is required. To the  
22 extent a response is required, The Shade Store states that the referenced regulation speaks for itself,  
23 and to the extent the allegations in Paragraph 46 vary therefrom, The Shade Store denies them.

24           47. Paragraph 47 contains legal conclusions to which no response is required. To the  
25 extent a response is required, The Shade Store states that the referenced statute speaks for itself,  
26 and to the extent the allegations in Paragraph 47 vary therefrom, The Shade Store denies them.

27           48. Paragraph 48 contains argument, or expert or legal conclusions, to which no  
28 response is required. To the extent that a response is required, The Shade Store denies the

1 allegations in Paragraph 48.

2 49. Paragraph 49 contains argument, or expert or legal conclusions, to which no  
3 response is required. To the extent a response is required, The Shade Store denies the allegations  
4 in Paragraph 49.

5 50. Paragraph 50 contains argument, or expert or legal conclusions, to which no  
6 response is required. To the extent a response is required, The Shade Store denies the allegations  
7 in Paragraph 50.

8 51. Paragraph 51 contains argument, or expert or legal conclusions, to which no  
9 response is required. The Shade Store specifically denies that its advertisements harm consumers  
10 or contain false information or misrepresentations. The Shade Store further denies that class  
11 treatment of Plaintiffs' claims is appropriate. The Shade Store denies any remaining allegations in  
12 Paragraph 51.

13 52. Paragraph 52 contains argument, or expert or legal conclusions, to which no  
14 response is required. To the extent a response is required, The Shade Store denies the allegations  
15 in Paragraph 52.

16 53. Paragraph 53 contains argument, or expert or legal conclusions, to which no  
17 response is required. To the extent a response is required, The Shade Store denies the allegations  
18 in Paragraph 53.

19 54. Paragraph 54 contains argument, or expert or legal conclusions, to which no  
20 response is required. To the extent a response is required, The Shade Store denies the allegations  
21 in Paragraph 54.

22 55. Paragraph 55 contains argument, or expert or legal conclusions, to which no  
23 response is required. The Shade Store specifically denies that its advertisements harm consumers  
24 or contain false information or misrepresentations. The Shade Store denies any remaining  
25 allegations in Paragraph 55.

26 56. The Shade Store admits that on January 26, 2022, The Shade Store sent an order  
27 confirmation in connection with an order for two sets of roller shades, and that the order was  
28 addressed to Ms. Crowder with a shipping address in Monterey, California. The Shade Store states

1 that the price quote referenced in Paragraph 56 speaks for itself, and to the extent the allegations  
2 in Paragraph 56 vary therefrom, The Shade Store denies them. The Shade Store lacks knowledge  
3 or information sufficient to form a belief as to the truth or falsity of the remaining allegations in  
4 Paragraph 56, and on that basis, denies them.

5 57. Paragraph 57 contains argument, or expert or legal conclusions, to which no  
6 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
7 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 57,  
8 and on that basis, denies them.

9 58. Paragraph 58 contains argument, or expert or legal conclusions, to which no  
10 response is required. To the extent that a response is required, The Shade Store denies the  
11 allegations in Paragraph 58.

12 59. The Shade Store admits that on July 13, 2021, The Shade Store sent an order  
13 confirmation in connection with an order for nine sets of roller shades, and that the order was  
14 addressed to Mr. Smith with a shipping address in San Francisco, California. The Shade Store  
15 further admits that it provided Mr. Smith a price quote. The Shade Store states that the referenced  
16 website, price quote, and screenshots set forth in Paragraph 59 speak for themselves, and to the  
17 extent the allegations in Paragraph 59 vary therefrom, The Shade Store denies them. The Shade  
18 Store lacks knowledge or information concerning the accuracy of the screenshots set forth in  
19 Paragraph 59, and therefore denies all allegations concerning them. The Shade Store lacks  
20 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining  
21 allegations in Paragraph 59, and on that basis, denies them.

22 60. Paragraph 60 contains argument, or expert or legal conclusions, to which no  
23 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
24 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 60,  
25 and on that basis, denies them.

26 61. Paragraph 61 contains argument, or expert or legal conclusions, to which no  
27 response is required. To the extent that a response is required, The Shade Store denies the  
28 allegations in Paragraph 61.

62. The Shade Store admits that on August 20, 2021, The Shade Store sent an order confirmation in connection with an order for four sets of roller shades, and that the order was addressed to Mr. Lumian with a shipping address in Venice, California. The Shade Store further admits that it received a request for samples from Mr. Lumian, and that a The Shade Store representative visited a home to measure windows in connection with Mr. Lumian's order. The Shade Store further admits that a The Shade Store design consultant provided Mr. Lumian a price quote. The Shade Store states that the price quote referenced in Paragraph 62 speaks for itself, and to the extent the allegations in Paragraph 62 vary therefrom, The Shade Store denies them. The Shade Store lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 62, and on that basis, denies them.

63. Paragraph 63 contains argument, or expert or legal conclusions, to which no response is required. To the extent a response is required, The Shade Store lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 63, and on that basis, denies them.

64. Paragraph 64 contains argument, or expert or legal conclusions, to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 64.

65. The Shade Store admits that on November 6, 2021, The Shade Store sent a confirmation in connection with an order for eleven sets of flat roman shades, eight sets of roller shades, and a set of drapes, and that the order was addressed to Ms. Goldwasser with a shipping address in Los Angeles, California. The Shade Store further admits that a The Shade Store design consultant provided a price quote to Ms. Goldwasser before the order was placed. The Shade Store states that the referenced price quote and screenshots set forth in Paragraph 65 speak for themselves, and to the extent that the allegations in Paragraph 65 vary therefrom, The Shade Store denies them. The Shade Store lacks knowledge or information concerning the accuracy of the screenshots set forth in Paragraph 65, and therefore denies all allegations concerning them. The Shade Store lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 65, and on that basis, denies them.

1           66. Paragraph 66 contains argument, or expert or legal conclusions, to which no  
2 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
3 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 66,  
4 and on that basis, denies them.

5           67. Paragraph 67 contains argument, or expert or legal conclusions, to which no  
6 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
7 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 67,  
8 and on that basis, denies them.

9           68. Paragraph 68 contains argument, or expert or legal conclusions, to which no  
10 response is required. To the extent that a response is required, The Shade Store denies the  
11 allegations in Paragraph 68.

12           69. The Shade Store admits that on January 24, 2023, The Shade Store sent an order  
13 confirmation in connection with an order for three sets of roller shades, and that the order was  
14 addressed to Mr. Elkins with a shipping address in San Francisco, California. The Shade Store  
15 further admits that a The Shade Store design consultant provided a price quote to Mr. Elkins before  
16 the order was placed. The Shade Store states that the referenced website, price quote, and  
17 screenshot set forth in Paragraph 69 speak for themselves, and to the extent that the allegations in  
18 Paragraph 69 vary therefrom, The Shade Store denies them. The Shade Store lacks knowledge or  
19 information concerning the accuracy of the screenshot set forth in Paragraph 69, and therefore  
20 denies all allegations concerning it. The Shade Store lacks knowledge or information sufficient to  
21 form a belief as to the truth or falsity of the remaining allegations in Paragraph 69, and on that  
22 basis, denies them.

23           70. Paragraph 70 contains argument, or expert or legal conclusions, to which no  
24 response is required. To the extent a response is required, The Shade Store lacks knowledge or  
25 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 70,  
26 and on that basis, denies them.

27           71. Paragraph 71 contains argument, or expert or legal conclusions, to which no  
28 response is required. To the extent a response is required, The Shade Store lacks knowledge or

1 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 71,  
2 and on that basis, denies them.

3 72. Paragraph 72 contains argument, or expert or legal conclusions, to which no  
4 response is required. To the extent that a response is required, The Shade Store denies the  
5 allegations in Paragraph 72.

6 73. Paragraph 73 contains argument and legal conclusions to which no response is  
7 required. To the extent that a response is required, The Shade Store denies the allegations in  
8 Paragraph 73.

9 74. Paragraph 74 contains argument and legal conclusions to which no response is  
10 required. To the extent that a response is required, The Shade Store denies the allegations in  
11 Paragraph 74.

12 75. Paragraph 75 contains argument and legal conclusions to which no response is  
13 required. To the extent that a response is required, The Shade Store denies the allegations in  
14 Paragraph 75.

15 76. Paragraph 76 contains argument and legal conclusions to which no response is  
16 required. To the extent that a response is required, The Shade Store denies the allegations in  
17 Paragraph 76.

18 77. Paragraph 77 contains argument and legal conclusions to which no response is  
19 required. To the extent that a response is required, The Shade Store denies the allegations in  
20 Paragraph 77.

21 78. Paragraph 78 sets forth argument, legal conclusions, and Plaintiffs' prayer for  
22 relief, to which no response is required. To the extent that a response is required, The Shade Store  
23 denies any allegations set forth in Paragraph 78 and further denies that Plaintiffs are entitled to any  
24 relief.

25 79. Paragraph 79 contains argument and legal conclusions to which no response is  
26 required. The Shade Store states that Cal. Bus. & Prof. Code § 17501 speaks for itself, and to the  
27 extent the allegations in Paragraph 79 vary therefrom, The Shade Store denies them. The Shade  
28 Store denies any remaining allegations set forth in Paragraph 79 and further denies that Plaintiffs

1 are entitled to any relief.

2 80. Paragraph 80 contains argument and legal conclusions to which no response is  
3 required. To the extent that a response is required, The Shade Store denies any allegations set forth  
4 in Paragraph 80 and further denies that Plaintiffs are entitled to any relief.

5 81. Paragraph 81 contains argument and legal conclusions to which no response is  
6 required. To the extent that a response is required, The Shade Store denies any allegations set forth  
7 in Paragraph 81 and further denies that Plaintiffs are entitled to any relief.

8 82. Paragraph 82 contains argument and legal conclusions to which no response is  
9 required. To the extent that a response is required, The Shade Store denies any allegations set forth  
10 in Paragraph 82 and further denies that Plaintiffs are entitled to any relief.

### 11 **CLASS ACTION ALLEGATIONS**

12 83. The Shade Store admits that Plaintiffs purport to bring this case as a class action.  
13 Paragraph 83 purports to characterize the putative Class and to assert legal conclusions, to which  
14 no response is required. To the extent a response is required, The Shade Store denies that class  
15 treatment of Plaintiffs' claims is appropriate and further denies any remaining allegations in  
16 Paragraph 83.

17 84. The Shade Store admits that Plaintiffs purport to bring this case as a class action.  
18 Paragraph 84 sets forth who Plaintiffs purport is excluded from the proposed class, to which no  
19 response is required. The Shade Store denies that class treatment of Plaintiffs' claims is  
20 appropriate. To the extent a response is required, The Shade Store denies any remaining allegations  
21 in Paragraph 84.

22 85. Paragraph 85 contains argument and legal conclusions to which no response is  
23 required. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the  
24 extent that a response is required, The Shade Store denies the allegations in Paragraph 85.

25 86. Paragraph 86 purports to characterize the putative Class and to assert legal  
26 conclusions, neither of which requires a response. The Shade Store denies that class treatment of  
27 Plaintiffs' claims is appropriate. To the extent that a response is required, The Shade Store denies  
28 the allegations in Paragraph 86.

87. Paragraph 87 purports to characterize the putative Class and to assert legal conclusions, both of which require no response. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 87.

88. Paragraph 88 purports to characterize the putative Class and to assert legal conclusions, neither of which requires a response. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 88.

89. Paragraph 89 contains legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 89.

### **CLAIMS**

#### **FIRST CAUSE OF ACTION**

##### **Violation of California's False Advertising Law, Bus. & Prof. Code §§ 17500 et. Seq.**

##### **(By Plaintiffs and the California Subclass)**

90. Paragraph 90 incorporates by reference each and every factual allegation set forth above and does not require a response. The Shade Store incorporates by reference its responses to each and every factual allegation as set forth above as if fully set forth herein.

91. Paragraph 91 purports to characterize the putative Class and to assert legal conclusions, neither of which requires a response. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 91.

92. Paragraph 92 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 92.

93. The Shade Store admits that it displays prices and discounts on its website and price quotes that are provided to customers, and that some quotes include a price that is crossed out and displayed next to a discount price. Paragraph 93 contains argument, or expert or legal conclusions, to which no response is required. The Shade Store lacks knowledge or information sufficient to



1 form a belief as to the truth or falsity of the remaining allegations in Paragraph 93, and on that  
2 basis, denies them.

3 94. Paragraph 94 contains argument, or expert or legal conclusions, to which no  
4 response is required. To the extent that a response is required The Shade Store denies the  
5 allegations in Paragraph 94.

6 95. Paragraph 95 contains argument, or expert or legal conclusions, to which no  
7 response is required. To the extent that a response is required, The Shade Store lacks knowledge  
8 or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph  
9 95, and on that basis denies them. The Shade Store denies any remaining allegations in Paragraph  
10 95.

11 96. Paragraph 96 contains argument, or expert or legal conclusions, to which no  
12 response is required. To the extent that a response is required, The Shade Store denies the  
13 allegations in Paragraph 96.

14 97. Paragraph 97 contains argument and legal conclusions to which no response is  
15 required. To the extent that a response is required, The Shade Store lacks knowledge or  
16 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 97,  
17 and on that basis denies them. The Shade Store denies any remaining allegations in Paragraph 97.

18 98. Paragraph 98 contains argument and legal conclusions to which no response is  
19 required. To the extent that a response is required, The Shade Store lacks knowledge or  
20 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 98,  
21 and on that basis denies them. The Shade Store denies any remaining allegations in Paragraph 98.

22 99. Paragraph 99 contains argument and legal conclusions to which no response is  
23 required. The Shade Store specifically denies that its advertisements caused Plaintiffs or other  
24 consumers to suffer any harm, losses, or damages, or contain false information or  
25 misrepresentations. The Shade Store further denies that class treatment of Plaintiffs' claims is  
26 appropriate. The Shade Store denies any remaining allegations in Paragraph 99.

27 100. Paragraph 100 contains argument and legal conclusions to which no response is  
28 required. The Shade Store specifically denies that its advertisements caused Plaintiffs or other

1 consumers to suffer any harm, losses, or damages, or contain false information or  
 2 misrepresentations. The Shade Store further denies that class treatment of Plaintiffs' claims is  
 3 appropriate. The Shade Store denies any remaining allegations in Paragraph 100.

4 101. Paragraph 101 contains argument and legal conclusions and sets forth Plaintiffs'  
 5 prayer for relief, to which no response is required. The Shade Store denies that class treatment of  
 6 Plaintiffs' claims is appropriate. To the extent that a response is required, The Shade Store denies  
 7 any allegations set forth in Paragraph 101 and further denies that Plaintiffs are entitled to any relief.

## 8 **SECOND CAUSE OF ACTION**

### 9 **Violation of California's Consumer Legal Remedies Act**

#### 10 **(By Plaintiffs and the California Subclass)**

11 102. Paragraph 102 incorporates by reference each and every factual allegation set forth  
 12 above and does not require a response. The Shade Store incorporates by reference its responses to  
 13 each and every factual allegation as set forth above as if fully set forth herein.

14 103. Paragraph 103 sets forth who is bringing the cause of action, to which no response  
 15 is required. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the  
 16 extent a response is required, The Shade Store denies any remaining allegations in Paragraph 103.

17 104. Paragraph 104 contains legal conclusions to which no response is required. The  
 18 Shade Store states that California Civil Code § 1761(d) speaks for itself, and to the extent the  
 19 allegations in Paragraph 104 vary therefrom, The Shade Store denies them. The Shade Store denies  
 20 any remaining allegations of Paragraph 104.

21 105. Paragraph 105 contains legal conclusions to which no response is required. The  
 22 Shade Store states that California Civil Code § 1761(e) speaks for itself, and to the extent the  
 23 allegations in Paragraph 105 vary therefrom, The Shade Store denies them. The Shade Store denies  
 24 any remaining allegations of Paragraph 105.

25 106. Paragraph 106 contains argument and legal conclusions to which no response is  
 26 required. To the extent that a response is required, The Shade Store denies the allegations in  
 27 Paragraph 106.

28 107. Paragraph 107 contains argument and legal conclusions to which no response is

1 required. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the  
2 extent that a response is required, The Shade Store denies the allegations in Paragraph 107.

3 108. Paragraph 108 contains argument and legal conclusions to which no response is  
4 required. To the extent that a response is required, The Shade Store denies the allegations in  
5 Paragraph 108.

6 109. Paragraph 109 contains argument, and expert or legal conclusions, to which no  
7 response is required. To the extent that a response is required, The Shade Store denies the  
8 allegations in Paragraph 109.

9 110. Paragraph 110 contains argument and legal conclusions to which no response is  
10 required. To the extent that a response is required, The Shade Store denies the allegations in  
11 Paragraph 110.

12 111. Paragraph 111 contains argument and legal conclusions to which no response is  
13 required. To the extent that a response is required, The Shade Store denies the allegations in  
14 Paragraph 111.

15 112. Paragraph 112 contains argument and legal conclusions to which no response is  
16 required. To the extent that a response is required, The Shade Store denies the allegations in  
17 Paragraph 112.

18 113. Paragraph 113 contains argument and legal conclusions to which no response is  
19 required. To the extent that a response is required, The Shade Store denies the allegations in  
20 Paragraph 113.

21 114. Paragraph 114 contains argument and legal conclusions to which no response is  
22 required. To the extent that a response is required, The Shade Store denies the allegations in  
23 Paragraph 114.

24 115. Paragraph 115 contains argument and legal conclusions to which no response is  
25 required. To the extent that a response is required, The Shade Store denies the allegations in  
26 Paragraph 115.

27 116. Paragraph 116 contains argument and legal conclusions to which no response is  
28 required. The Shade Store specifically denies that its advertisements caused Plaintiffs or other

1 consumers to suffer any harm, losses, or damages, or contain false information or  
2 misrepresentations. The Shade Store further denies that class treatment of Plaintiffs' claims is  
3 appropriate. To the extent that a response is required, The Shade Store denies the allegations in  
4 Paragraph 116.

5 117. Paragraph 117 contains argument, or expert or legal conclusions, and sets forth  
6 Plaintiffs' prayer for relief, to which no response is required. The Shade Store denies that class  
7 treatment of Plaintiffs' claims is appropriate. To the extent that a response is required, The Shade  
8 Store denies any allegations in Paragraph 117 and denies that Plaintiffs are entitled to any relief.

9 118. The Shade Store admits that Ms. Crowder sent a letter dated May 5, 2023, to The  
10 Shade Store's headquarters in New York via certified mail. The Shade Store further admits that it  
11 does not have a headquarters in California. The Shade Store states that the referenced letter and  
12 the initial complaint filed in this action by Ms. Crowder speak for themselves, and to the extent  
13 the allegations in Paragraph 118 vary therefrom, The Shade Store denies them. Paragraph 118  
14 contains argument, legal conclusions, and Plaintiffs' prayer for relief, to which no response is  
15 required. To the extent a response is required, The Shade Store denies the allegations in Paragraph  
16 118 and further denies that Plaintiffs are entitled to any relief.

17 119. The Shade Store admits that Ms. Crowder sent a letter to The Shade Store's  
18 headquarters, and that Mr. Lumian sent a letter dated January 30, 2024, to The Shade Store's  
19 headquarters in New York via certified mail. The Shade Store further admits that it does not have  
20 a headquarters in California. The Shade Store states that the referenced letter speaks for itself, and  
21 to the extent the allegations in Paragraph 119 vary therefrom, The Shade Store denies them.  
22 Paragraph 119 contains argument, legal conclusions, and Plaintiffs' prayer for relief, to which no  
23 response is required. To the extent a response is required, The Shade Store denies the allegations  
24 in Paragraph 119 and further denies that Plaintiffs are entitled to any relief.

25 120. The Shade Store admits that Mr. Smith sent a letter dated February 13, 2024, to The  
26 Shade Store's headquarters in New York via certified mail. The Shade Store further admits that it  
27 does not have a headquarters in California. The Shade Store states that the referenced letter speaks  
28 for itself, and to the extent the allegations in Paragraph 120 vary therefrom, The Shade Store denies

1 them. Paragraph 120 contains argument, legal conclusions, and Plaintiffs' prayer for relief, to  
 2 which no response is required. To the extent a response is required, The Shade Store denies the  
 3 allegations in Paragraph 120 and further denies that Plaintiffs are entitled to any relief.

4 121. The Shade Store admits that Ms. Goldwasser sent a letter dated March 7, 2024, to  
 5 The Shade Store's headquarters in New York via certified mail. The Shade Store further admits  
 6 that it does not have a headquarters in California. The Shade Store states that the referenced letter  
 7 speaks for itself, and to the extent the allegations in Paragraph 121 vary therefrom, The Shade  
 8 Store denies them. Paragraph 121 contains argument, legal conclusions, and Plaintiffs' prayer for  
 9 relief, to which no response is required. To the extent a response is required, The Shade Store  
 10 denies the allegations in Paragraph 121 and further denies that Plaintiffs are entitled to any relief.

11 122. The Shade Store admits that Mr. Elkins sent a letter dated October 10, 2024, to The  
 12 Shade Store's headquarters in New York via certified mail. The Shade Store further admits that it  
 13 does not have a headquarters in California. The Shade Store states that the referenced letter speaks  
 14 for itself, and to the extent the allegations in Paragraph 122 vary therefrom, The Shade Store denies  
 15 them. Paragraph 122 contains argument, legal conclusions, and Plaintiffs' prayer for relief, to  
 16 which no response is required. To the extent a response is required, The Shade Store denies the  
 17 allegations in Paragraph 122 and further denies that Plaintiffs are entitled to any relief.

18 123. The Shade Store states that the attachments to Plaintiffs' Third Amended Class  
 19 Action Complaint speak for themselves, and to the extent the allegations in Paragraph 123, The  
 20 Shade Store denies them. The Shade Store denies any remaining allegations in Paragraph 123.

### 21 22 23 **THIRD CAUSE OF ACTION**

#### 24 **Violation of California's Unfair Competition Law**

#### 25 **(By Plaintiffs and the California Subclass)**

26 124. Paragraph 124 incorporates by reference each and every factual allegation set forth  
 27 above and does not require a response. The Shade Store incorporates by reference its responses to  
 28 each and every factual allegation as set forth above as if fully set forth herein.

1           125. The Shade Store admits that Plaintiffs seek to bring this case as a class action. The  
2 Shade Store denies that class treatment of Plaintiffs' claims is appropriate. The Shade Store denies  
3 any remaining allegations in Paragraph 125.

4           126. Paragraph 126 contains argument and legal conclusions to which no response is  
5 required. To the extent that a response is required, The Shade Store denies the allegations in  
6 Paragraph 126.

7           127. Paragraph 127 contains argument and legal conclusions to which no response is  
8 required. The Shade Store states that the referenced statute and regulation speak for themselves,  
9 and to the extent the allegations in Paragraph 127 vary therefrom, The Shade Store denies them.  
10 The Shade Store denies any remaining allegations in Paragraph 127.

11           128. Paragraph 128 contains argument and legal conclusions to which no response is  
12 required. To the extent that a response is required, The Shade Store denies the allegations in  
13 Paragraph 128.

14           129. Paragraph 129 contains argument, or expert or legal conclusions, to which no  
15 response is required. To the extent that a response is required, The Shade Store denies the  
16 allegations in Paragraph 129.

17           130. Paragraph 130 contains argument and legal conclusions to which no response is  
18 required. To the extent that a response is required, The Shade Store denies the allegations in  
19 Paragraph 130.

20           131. Paragraph 131 contains argument and legal conclusions to which no response is  
21 required. To the extent that a response is required, The Shade Store denies the allegations in  
22 Paragraph 131.

23           132. Paragraph 132 contains argument and legal conclusions to which no response is  
24 required. To the extent that a response is required, The Shade Store denies the allegations in  
25 Paragraph 132.

26           133. Paragraph 133 contains argument and legal conclusions to which no response is  
27 required. The Shade Store specifically denies that its advertisements harm consumers or contain  
28 false information or misrepresentations. The Shade Store denies any remaining allegations in

1 Paragraph 133.

2 134. Paragraph 134 contains argument and legal conclusions to which no response is  
3 required. The Shade Store specifically denies that its advertisements harm consumers or contain  
4 false information or misrepresentations. The Shade Store denies any remaining allegations in  
5 Paragraph 134.

6 135. Paragraph 135 contains argument and legal conclusions to which no response is  
7 required. The Shade Store specifically denies that its advertisements harm consumers or contain  
8 false information or misrepresentations. The Shade Store denies any remaining allegations in  
9 Paragraph 135.

10 136. Paragraph 136 contains argument and legal conclusions to which no response is  
11 required. To the extent that a response is required, The Shade Store denies the allegations in  
12 Paragraph 136.

13 137. Paragraph 137 contains argument and legal conclusions to which no response is  
14 required. To the extent that a response is required, The Shade Store denies the allegations in  
15 Paragraph 137.

16 138. Paragraph 138 contains argument and legal conclusions to which no response is  
17 required. To the extent that a response is required, The Shade Store denies the allegations in  
18 Paragraph 138.

19 139. Paragraph 139 contains argument and legal conclusions to which no response is  
20 required. To the extent that a response is required, The Shade Store denies the allegations in  
21 Paragraph 139.

22 140. Paragraph 140 sets forth a prayer for relief, to which no response is required. To  
23 the extent that a response is required, The Shade Store denies any allegations in Paragraph 140 and  
24 denies that Plaintiffs are entitled to any relief.

## 25 **FOURTH CAUSE OF ACTION**

### 26 **Breach of Contract**

#### 27 **(By Plaintiffs and the Nationwide Class)**

28 141. Paragraph 141 incorporates by reference each and every factual allegation set forth

1 above and does not require a response. The Shade Store incorporates by reference its responses to  
2 each and every factual allegation as set forth above as if fully set forth herein.

3 142. The Shade Store admits that Plaintiffs seek to bring this case as a class action. The  
4 Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent a response  
5 is required, any remaining allegations in Paragraph 142 are denied.

6 143. Paragraph 143 contains argument and legal conclusions to which no response is  
7 required. To the extent that a response is required, The Shade Store denies the allegations in  
8 Paragraph 143.

9 144. Paragraph 144 contains argument and legal conclusions to which no response is  
10 required. To the extent that a response is required, The Shade Store denies the allegations in  
11 Paragraph 144.

12 145. Paragraph 145 contains argument and legal conclusions to which no response is  
13 required. To the extent that a response is required, The Shade Store denies the allegations in  
14 Paragraph 145.

15 146. Paragraph 146 contains argument and legal conclusions to which no response is  
16 required. To the extent that a response is required, The Shade Store denies the allegations in  
17 Paragraph 146.

18 147. Paragraph 147 contains argument and legal conclusions to which no response is  
19 required. To the extent that a response is required, The Shade Store denies the allegations in  
20 Paragraph 147.

21 148. Paragraph 148 contains argument and legal conclusions to which no response is  
22 required. To the extent that a response is required, The Shade Store denies the allegations in  
23 Paragraph 148.

24 149. The Shade Store admits that Ms. Crowder sent a letter dated May 5, 2024, to The  
25 Shade Store's headquarters, that Mr. Lumian sent a letter dated January 30, 2024, to The Shade  
26 Store's headquarters, that Mr. Smith sent a letter dated February 13, 2024, to The Shade Store's  
27 headquarters, that Ms. Goldwasser sent a letter dated March 7, 2024, to The Shade Store's  
28 headquarters, and that Mr. Elkins sent a letter dated October 10, 2024 to The Shade Store's



headquarters. The Shade Store states that the referenced letters speak for themselves, and to the extent the allegations in Paragraph 149 vary therefore, The Shade Store denies them. The Shade Store denies any remaining allegations of Paragraph 149.

150. Paragraph 150 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 150.

151. Paragraph 151 sets forth a prayer for relief, to which no response is required. To the extent that a response is required, The Shade Store denies any allegations in Paragraph 151 and denies that Plaintiffs are entitled to any relief.

## **FIFTH CAUSE OF ACTION**

### **Breach of Express Warranty**

#### **(By Plaintiffs and the Nationwide Class)**

152. Paragraph 152 incorporates by reference each and every factual allegation set forth above and does not require a response. The Shade Store incorporates by reference its responses to each and every factual allegation as set forth above as if fully set forth herein.

153. The Shade Store admits that Plaintiffs seek to bring this case as a class action. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. The Shade Store denies any remaining allegations in Paragraph 153.

154. Paragraph 154 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 154.

155. Paragraph 155 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 155.

156. Paragraph 156 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 156.

157. The Shade Store admits that Ms. Crowder sent a letter dated May 5, 2023, to The

Shade Store's headquarters, that Mr. Lumian sent a letter dated January 30, 2024, to The Shade Store's headquarters, that Mr. Smith sent a letter dated February 13, 2024, to The Shade Store's headquarters, Ms. Goldwasser sent a letter dated March 7, 2024, to The Shade Store's headquarters, and that Mr. Elkins sent a letter dated October 10, 2024, to The Shade Store's headquarters. The Shade Store states that the referenced letters speak for themselves, and to the extent the allegations in Paragraph 157 vary therefore, The Shade Store denies them. The Shade Store denies any remaining allegations of Paragraph 157.

158. Paragraph 158 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 158.

159. Paragraph 159 sets forth a prayer for relief, to which no response is required. To the extent that a response is required, The Shade Store denies any allegations in Paragraph 159 and denies that Plaintiffs are entitled to any relief.

## **SIXTH CAUSE OF ACTION**

### **Breach of Implied Warranty**

#### **(By Plaintiffs and the California Subclass)**

160. Paragraph 160 incorporates by reference each and every factual allegation set forth above and does not require a response. The Shade Store incorporates by reference its responses to each and every factual allegation as set forth above as if fully set forth herein.

161. The Shade Store admits that Plaintiffs seek to bring this case as a class action. The Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent a response is required, any remaining allegations in Paragraph 161 are denied.

162. Paragraph 162 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 162.

163. Paragraph 163 contains argument and legal conclusions to which no response is required. To the extent that a response is required, The Shade Store denies the allegations in Paragraph 163.

1           164. Paragraph 164 contains argument and legal conclusions to which no response is  
2 required. To the extent that a response is required, The Shade Store denies the allegations in  
3 Paragraph 164.

4           165. The Shade Store admits that Ms. Crowder sent a letter dated May 5, 2023, to The  
5 Shade Store's headquarters, that Mr. Lumian sent a letter dated January 30, 2024, to The Shade  
6 Store's headquarters, that Mr. Smith sent a letter dated February 13, 2024, to The Shade Store's  
7 headquarters, Ms. Goldwasser sent a letter dated March 7, 2024, to The Shade Store's  
8 headquarters, and that Mr. Elkins sent a letter dated October 10, 2024, to The Shade Store's  
9 headquarters. The Shade Store states that the referenced letters speak for themselves, and to the  
10 extent the allegations in Paragraph 165 vary therefore, The Shade Store denies them. The Shade  
11 Store denies any remaining allegations of Paragraph 165.

12           166. Paragraph 166 contains argument and legal conclusions to which no response is  
13 required. To the extent that a response is required, The Shade Store denies the allegations in  
14 Paragraph 166.

15           167. Paragraph 167 sets forth a prayer for relief, to which no response is required. To  
16 the extent that a response is required, The Shade Store denies any allegations in Paragraph 167 and  
17 denies that Plaintiffs are entitled to any relief.

## 18           **SEVENTH CAUSE OF ACTION**

### 19           **Quasi-Contract/Unjust Enrichment**

#### 20           **(By Plaintiffs and the Nationwide Class)**

21           168. Paragraph 168 incorporates by reference each and every factual allegation set forth  
22 above and does not require a response. The Shade Store incorporates by reference its responses to  
23 each and every factual allegation as set forth above as if fully set forth herein.

24           169. The Shade Store admits that Plaintiffs seek to bring this case as a class action. The  
25 Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent a response  
26 is required, any remaining allegations in Paragraph 169 are denied.

27           170. The Shade Store admits that Plaintiffs seek to bring their quasi-contract/unjust  
28 enrichment claim in the alternative to their legal claims. The Shade Store denies any remaining

1 allegations in Paragraph 170.

2 171. Paragraph 171 contains argument and legal conclusions to which no response is  
3 required. To the extent that a response is required, The Shade Store denies the allegations in  
4 Paragraph 171.

5 172. Paragraph 172 contains argument, or expert or legal conclusions, to which no  
6 response is required. To the extent that a response is required, The Shade Store denies the  
7 allegations in Paragraph 172.

8 173. Paragraph 173 contains argument and legal conclusions to which no response is  
9 required. To the extent that a response is required, The Shade Store denies the allegations in  
10 Paragraph 173.

11 174. Paragraph 174 sets forth a prayer for relief, to which no response is required. To  
12 the extent that a response is required, The Shade Store denies any allegations in Paragraph 174 and  
13 denies that Plaintiffs are entitled to any relief.

#### 14 **EIGHTH CAUSE OF ACTION**

##### 15 **Intentional Misrepresentation**

##### 16 **(By Plaintiffs and the California Subclass)**

17 175. Paragraph 175 incorporates by reference each and every factual allegation set forth  
18 above and does not require a response. The Shade Store incorporates by reference its responses to  
19 each and every factual allegation as set forth above as if fully set forth herein.

20 176. The Shade Store admits that Plaintiffs seek to bring this case as a class action. The  
21 Shade Store denies that class treatment of Plaintiffs' claims is appropriate. To the extent a response  
22 is required, any remaining allegations in Paragraph 176 are denied.

23 177. Paragraph 177 contains argument and legal conclusions to which no response is  
24 required. To the extent that a response is required, The Shade Store denies the allegations in  
25 Paragraph 177.

26 178. Paragraph 178 contains argument and legal conclusions to which no response is  
27 required. The Shade Store specifically denies that its advertisements contained false information  
28 or misrepresentations. To the extent that a response is required, The Shade Store denies the

1 allegations in Paragraph 178.

2 179. Paragraph 179 contains argument and legal conclusions to which no response is  
3 required. To the extent that a response is required, The Shade Store denies the allegations in  
4 Paragraph 179.

5 180. Paragraph 180 contains argument and legal conclusions to which no response is  
6 required. To the extent that a response is required, The Shade Store denies the allegations in  
7 Paragraph 180.

8 181. Paragraph 181 contains argument and legal conclusions to which no response is  
9 required. To the extent that a response is required, The Shade Store denies the allegations in  
10 Paragraph 181.

11 182. Paragraph 182 contains argument and legal conclusions to which no response is  
12 required. To the extent that a response is required, The Shade Store denies the allegations in  
13 Paragraph 182.

14 183. Paragraph 183 contains argument and legal conclusions to which no response is  
15 required. To the extent that a response is required, The Shade Store denies the allegations in  
16 Paragraph 183.

17 184. Paragraph 184 sets forth a prayer for relief, to which no response is required. To  
18 the extent that a response is required, The Shade Store denies any allegations in Paragraph 184 and  
19 denies that Plaintiffs are entitled to any relief.

20 **DEMAND FOR JURY TRIAL**

21 185. This Paragraph sets forth Plaintiffs' request for trial by jury, to which no response  
22 is required.

23 **RELIEF**

24 186. Paragraph 186 sets forth Plaintiffs' prayer for relief, to which no response is  
25 required. To the extent that a response is required, The Shade Store denies any allegations in  
26 Paragraph 186 and denies that Plaintiff is entitled to any relief.

27 **AFFIRMATIVE DEFENSES**

28 Without assuming any burden of proof, persuasion, or production not otherwise legally

1 assigned to it as to any element of Plaintiffs' claims, and without waiving and hereby expressly  
 2 reserving the right to assert any and all such defenses at such time and to such extent as discovery  
 3 and factual developments establish a basis therefore, The Shade Store asserts the following  
 4 defenses:

5 **FIRST DEFENSE**

6 **(Failure to State a Claim)**

7 The Third Amended Class Action Complaint fails to state a claim upon which relief can be  
 8 granted.

9 **SECOND DEFENSE**

10 **(Failure to Mitigate Damages)**

11 For each purported cause of action, Plaintiffs and/or the putative class have failed, refused,  
 12 and/or neglected to mitigate or avoid the damages complained of in the Third Amended Class  
 13 Action Complaint, if any.

14 **THIRD DEFENSE**

15 **(No Standing)**

16 Plaintiffs lack standing to assert the claims alleged in the Third Amended Class Action  
 17 Complaint.

18 **FOURTH DEFENSE**

19 **(Estoppel)**

20 Each cause of action contained in the Third Amended Class Action Complaint is barred in  
 21 whole or in part because Plaintiffs and/or the putative class are barred by the doctrine of estoppel.

22 **FIFTH DEFENSE**

23 **(Unclean Hands)**

24 The Third Amended Class Action Complaint, and each of the purported causes of action  
 25 asserted therein against The Shade Store, is barred in whole or in part by the doctrine of unclean  
 26 hands.  
 27  
 28

**SIXTH DEFENSE****(Laches)**

Plaintiffs and/or the putative class have waited an unreasonably long time to file this lawsuit, materially prejudicing The Shade Store's ability to defend the lawsuit.

**SEVENTH DEFENSE****(Due Process)**

Each purported claim in the Third Amended Class Action Complaint, the purported classes, and the relief it seeks including excessive punitive damages, is barred to the extent that they violate due process under the United States Constitution or applicable state constitutions.

**EIGHTH DEFENSE****(Waiver)**

Each cause of action contained in the Third Amended Class Action Complaint is barred in whole or in part because Plaintiffs and/or the putative class are barred by the doctrine of waiver.

**NINTH DEFENSE****(Statute(s) of Limitations and Repose)**

All or part of the claims that Plaintiffs assert are barred by the applicable statute(s) of limitations and repose.

**TENTH DEFENSE****(Lack of Materiality)**

Plaintiffs' and the putative class members' claims are barred on an individual basis because the information the Plaintiffs claim was deceptive was not material to them, and The Shade Store is informed and believes that the overwhelming majority of its customers bought items for many different reasons unconnected to any reference pricing, and without any misunderstanding as to the meaning of any reference pricing.

**ELEVENTH DEFENSE****(Doctrine of Accord and Satisfaction)**

The claims of Plaintiffs and/or the putative class are barred in whole or in part, by the doctrine of accord and satisfaction. Over the preceding six years, many customers have returned

1 their purchases for a full refund. These customers have no claim.

2 **TWELFTH DEFENSE**

3 **(Unjust Enrichment)**

4 Plaintiffs' and/or the putative class's claims are barred to the extent they would be unjustly  
5 enriched by any recovery, including because they received the goods they purchased and did not  
6 return them.

7 **THIRTEENTH DEFENSE**

8 **(Voluntary Payment Doctrine)**

9 The claims of Plaintiffs and/or the putative class are barred by the voluntary payment  
10 doctrine.

11 **FOURTEENTH DEFENSE**

12 **(Fair Competition/Business Economic Justification)**

13 The claims of Plaintiffs and/or the putative class are barred, in whole or in part, because  
14 the conduct alleged in the Third Amended Class Action Complaint constituted fair competition,  
15 and was reasonable, based on independent and legitimate business and economic justifications,  
16 and without the purpose, intent, or effect of injuring Plaintiffs or the putative classes.

17 **FIFTHTEENTH DEFENSE**

18 **(Conduct of Others)**

19 If Plaintiffs and the putative class members sustained damages, which The Shade Store  
20 denies, their claims are barred, in whole or in part because the conduct, actions, or omissions of  
21 other persons or entities, over which The Shade Store had no control, caused or contributed to  
22 Plaintiffs' and the putative class members' alleged damages.

23 **SIXTEENTH DEFENSE**

24 **(Adequate Remedies at Law)**

25 Plaintiffs' and/or the putative class members' claims for equitable relief (including  
26 Plaintiffs' equitable claims under the UCL, FAL, CLRA, and for unjust enrichment) are barred by  
27 the existence of adequate remedies at law.  
28



**SEVENTEENTH DEFENSE****(Lack of Causation)**

Plaintiffs and the putative class members have not been damaged, and The Shade Store's conduct did not cause, proximately cause, or solely cause the damages and/or injuries Plaintiffs claim.

**EIGHTEENTH DEFENSE****(No Deception)**

The relief Plaintiffs seeks is barred, in whole or part, because the conduct complained of is not unlawful, unfair, fraudulent, deceptive, untrue, or misleading.

**NINETEENTH DEFENSE****(First Amendment)**

All or part of the claims that Plaintiffs asserts are barred in whole or part by the First Amendment to the United States Constitution and the free speech provision of the California Constitution, which protect, among other things, Defendant's right to promote and advertise the products at issue. The statutes and regulations upon which Plaintiffs rely unconstitutionally regulate free speech.

**TWENTIETH DEFENSE****(Mootness)**

Plaintiffs' and the putative class members' claims are barred, in whole or in part, to the extent that the claims or relief sought are moot.

**TWENTY-FIRST DEFENSE****(Failure to Allege Facts Supporting Punitive Damages)**

Plaintiffs failed to adequately plead and/or allege that The Shade Store acted with the requisite state of mind to warrant an award of punitive damages.

**TWENTY-SECOND DEFENSE****(Excessive Fines)**

Plaintiffs' and the putative class members' claims for punitive damages are barred by the Excessive Fines Clause of the United State Constitution (amend. VIII). To the extent that the law

1 of the State of California may require that a portion of any award of punitive damages be paid to  
 2 the State, any award of punitive damages constitutes a “fine” subject to the Excessive Fines Clause.  
 3 Under those circumstances, any amount of punitive damages would be excessive in violation of  
 4 the Excessive Fines Clause.

### 5 **TWENTY-THIRD DEFENSE**

#### 6 **(Extraterritorial Conduct)**

7 Plaintiffs’ and the putative class members’ claims for punitive damages are barred by the  
 8 Due Process Clause of the U.S. Constitution, amend. V and XIV, Section 1, the Commerce Clause  
 9 of the United States Constitution, Article I, Section 8, clause 3, and by the principles of federalism  
 10 embodied in the Constitution, to the extent that the claim is based on any conduct by Defendant  
 11 that occurred outside the State of California. No legitimate interest of the State of California can  
 12 be served by the imposition of punitive damages based on conduct that occurred outside this State;  
 13 therefore, the limitations on state power in the Due Process and Commerce Clauses prohibit any  
 14 award of punitive damages based on such conduct.

### 15 **TWENTY-FOURTH DEFENSE**

#### 16 **(Intervening/Superseding Cause)**

17 If Plaintiffs or the putative class members sustained injuries or damages as alleged, which  
 18 The Shade Store denies, their injuries or damages were the result of intervening and/or superseding  
 19 causes, and not the result of acts or omissions by The Shade Store.

### 20 **TWENTY-FIFTH DEFENSE**

#### 21 **(No Loss)**

22 Plaintiffs’ and the putative class members’ claims are barred, in whole or part, because  
 23 they suffered no ascertainable loss of money or property.

### 24 **TWENTY-SIXTH DEFENSE**

#### 25 **(Failure to Comply with Procedural Requirements)**

26 Plaintiffs’ and the putative class members’ claims are barred, in whole or part, for failure  
 27 to comply with procedural requirements, including but not limited to, the procedural requirements  
 28 set forth under Cal. Civ. Code §§ 1750, et seq.

**TWENTY-SEVENTH DEFENSE****(No Duty to Disclose)**

Plaintiffs' and the putative class members' claims are barred because The Shade Store was under no duty to disclose any of the purported information Plaintiffs allege was not disclosed.

**TWENTY-EIGHTH DEFENSE****(Safe Harbor)**

Plaintiffs' claims and requests for relief, and the claims and requests for relief of the members of the putative class, if any, are barred in whole or in part by the safe harbor doctrines incorporated into Plaintiffs' state law claims.

**TWENTY-NINTH DEFENSE****(Comparative Fault)**

Any damages sustained by Plaintiffs and/or members of the putative class must be reduced in proportion to the wrongful or negligent conduct of persons or entities other than The Shade Store, including third parties, under the principles of equitable allocation, recoupment, set-off, proportionate responsibility, and/or comparative fault.

**THIRTIETH DEFENSE****(Indemnity and Contribution)**

The Shade Store cannot be held liable for Plaintiffs' damages pursuant to indemnity and contribution agreements.

**THIRTY-FIRST DEFENSE****(Justification and Privilege)**

The Third Amended Class Action Complaint, and each of the purported claims for relief asserted therein against The Shade Store, is barred, in whole or in part because The Shade Store's actions, if any, respecting the subject matters alleged therein were undertaken in good faith, with the absence of malicious intent, and constitute lawful, proper, and justified means.

**THIRTY-SECOND DEFENSE****(Set-Off)**

Plaintiffs' and/or the putative class members' claims are subject to set-off of the reasonable

1 value of goods and services that Plaintiffs and the putative class have received from The Shade  
2 Store.

### 3 **THIRTY-THIRD DEFENSE**

#### 4 **(No Class Relief)**

5 The claims in the Third Amended Class Action Complaint are not properly maintained as  
6 a class action because, *inter alia*, Plaintiffs are not adequate representatives; Plaintiffs' claims are  
7 not common or typical of the claims of members of the putative class; Plaintiffs' claims are subject  
8 to unique facts and defenses; common questions of law and fact do not dominate over any common  
9 issues; class treatment is not superior to other available methods of determining the controversy;  
10 and a class action would be unmanageable.

### 11 **THIRTY-FOURTH DEFENSE**

#### 12 **(Reasonable Conduct)**

13 Any conduct of The Shade Store that has been alleged by Plaintiffs and/or the putative  
14 class members was reasonable under the circumstances and thus not unfair.

#### 15 **(Additional Defenses)**

16 The Shade Store has not knowingly or intentionally waived any applicable defenses and  
17 reserves the right to assert and rely on other applicable defenses as may become available or  
18 apparent during discovery in this matter. The Shade Store reserves the right to amend or  
19 supplement its Answer and/or affirmative defenses as may be necessary and appropriate.

### 20 **THE SHADE STORE'S PRAYER FOR RELIEF**

21 WHEREFORE, The Shade Store prays as follows:

- 22 1. That Plaintiffs and the putative class take nothing by way of the Third Amended
- 23 Complaint;
- 24 2. That certification of the purported class or subclasses alleged in the Third Amended
- 25 Complaint be denied;
- 26 3. That the Third Amended Complaint is dismissed with prejudice;
- 27 4. That The Shade Store be awarded attorneys' fees and costs; and
- 28 5. That The Shade Store be awarded such other relief as the Court deems just and

proper.

**DEMAND FOR JURY TRIAL**

Defendant hereby demands trial by jury on each purported claim for relief, cause of action, and affirmative defense at issue herein.

Dated: March 24, 2025

Respectfully submitted,

LATHAM & WATKINS LLP

By /s/ Steven N. Feldman  
Steven N. Feldman (Bar No. 281405)  
steve.feldman@lw.com  
355 South Grand Avenue, Suite 100  
Los Angeles, California 90071-1560  
Telephone: +1.213.891.8790

Johanna Spellman (*pro hac vice*)  
johanna.spellman@lw.com  
330 N. Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Telephone: +1.312.777.7039

Kevin Jakopchek (*pro hac vice*)  
kevin.jakopchek@lw.com  
330 N. Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Telephone: +1.312.777.7244

Shlomo Fellig (*pro hac vice*)  
shlomo.fellig@lw.com  
200 Clarendon Street  
Boston, MA 02116  
Telephone: +1.617.880.4636

*Attorneys for Defendant*  
The Shade Store, LLC